

PT 98-70

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

THE CATHOLIC BISHOP OF CHICAGO

Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

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Docket #

95-49-287

Parcel Index #

14-20-200-021

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held on April 9, 1997, at the James R. Thompson Center, 100 West Randolph Street, Chicago, Illinois, to determine whether or not Lake County Parcel Index No.14-20-200-021 qualified for exemption from real estate taxation for all or part of the 1995 assessment year. Lake County Parcel Index No. 14-20-200-021 was acquired on September 11, 1995, by the Catholic Bishop of Chicago, a Corporation Sole, which is the legal name for the Roman Catholic Archdiocese of Chicago, (hereinafter referred to as the "Applicant").

Ms. Claudia Shabo, Administrative Assistant in the Real Estate Department of the applicant, Father Ron Gollatz, pastor of St. Francis de Sales Church, (hereinafter referred to as the "Church") and Mr. Glenn Wagner, business manager of the church, were present and/or testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant and the church are religious organizations; secondly, whether the applicant owned this parcel during all or part of the 1995 assessment year; and lastly, whether the church used all or part of this parcel for religious or school purposes during all or part of the 1995 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant and the church are religious organizations. It is also determined that the applicant owned this parcel during the period September 11, 1995, through December 31, 1995. Finally, it is determined that the church used one-third of this parcel for the period September 11, 1995, through December 31, 1995, for school or religious purposes.

It is therefore recommended that one-third of Lake County Parcel Index No. 14-20-200-021 be exempt from real estate taxation for 31% of the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department Of Revenue (hereinafter referred to as the "Department") in this matter, namely that this parcel did not qualify for exemption for the 1995 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 5A.

2. On February 28, 1996, the Lake County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcel here in issue for the 1995 assessment year. (Dept. Ex. No. 1)

3. On August 1, 1996, the Department advised the applicant that it was denying the exemption of this parcel because said parcel was not in exempt use. (Dept. Ex. No. 2)

4. By a letter dated August 6, 1996, a real estate associate of the applicant requested a formal hearing in this matter. (Dept. Ex. No. 3)

5. The hearing in this matter, conducted on April 9, 1997, was held pursuant to that request.

6. The applicant acquired this parcel by a trustee's deed dated September 11, 1995. (Dept. Ex. No. 1A)

7. This parcel is a vacant parcel adjacent to the parcel on which the church, the parochial grade school, the parish rectory, and the parish office of the church are located. (Dept. Ex. 3F)

8. The church is a Roman Catholic Church which is located within the Chicago Archdiocese. Average weekly church attendance is approximately 2800 and there are approximately 540 children in the parochial grade school. (Tr. pp. 10 & 13, Dept. Ex. No.11)

9. Father Gollatz submitted an affidavit dated September 27, 1995, which was included in the documents furnished to the Department by the Lake County Board of Review. In that affidavit, he stated that the parcel here in issue was purchased for future parish development. At the hearing, Father Gollatz testified that his affidavit was incomplete since he had failed to state therein that there was use of this parcel, particularly along the border with the church property, from the date of acquisition of the parcel. (Tr. pp. 10-12, Dept. Ex. No. 1B)

10. During the period September 11, 1995, through December 31, 1995, the parcel here in issue was used by the parochial grade school students in their gym program as a soccer field. Also during that period, the school playground equipment was located near the edge of the church parking lot on this parcel and was used by the school children during recess and lunch periods. (Tr. pp. 10 & 11, 20 & 21)

11. Beginning in 1996, on Palm Sunday, during the blessing of the palms, the worshipers gathered on this parcel, received their palms, and then proceeded into the church for the service. (Tr. p. 11)

12. The church sponsored scout troop also used this parcel during the period here in issue for bonfires and other activities. (Tr. p. 11)

13. During the period September 11, 1995, through December 31, 1995, the school children also used this parcel for collecting leaves and other activities in connection with their science projects. (Tr. p. 11)

14. The applicant's witnesses testified that only a portion of this parcel was used by the school children, because a substantial portion of the parcel was heavily overgrown with buckthorn. Father Gollatz was asked to estimate the portion of this parcel which was being used

by the church and school during the period September 11, 1995, through December 31, 1995. His estimate was one-third to one-half of the parcel. (Tr. pp. 14 , 18 & 19)

15. Both the photographs submitted by the applicant and the aerial Sidwell map show that a large portion of this parcel was overgrown and not useable. In addition, the photographs clearly show that the areas which are mowed by the church and are useable for church and school activities are areas along the boundary of the church parcel. The amount of usable land would not exceed one-third of this parcel. (Depts. Ex. Nos. 1C, 3B, 3C, 3D, and Appl. Grp. Ex. No. 1- photos 1-10)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-40 provides as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . not leased or otherwise used with a view to profit, is exempt,

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the

exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986).

Based on the foregoing, I conclude that the applicant and the church are religious organizations. I also conclude that the applicant acquired this parcel on September 11, 1995. Finally, I conclude that based on the facts presented in this case, the church used approximately one-third of this parcel for primarily school purposes as a soccer field and playground during the period September 11, 1995 through December 31, 1995.

I therefore recommend that one-third of Lake County Parcel Index No. 14-20-200-021 be exempt from real estate taxation for 31% of the 1995 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
August 24, 1998